

REMARKS

This Amendment response to Office Action mailed July 13, 2006. Claims 1-29 and 59-60 are pending. Independent claims 1 and 22 are amended.

Applicants wish to thank the Examiner for recognizing in paragraph 4 of the Office Action that claims 5-7, 15-17 and 26-28 are allowable.

In paragraphs 2-3 of the Office Action, claims 1-4, 8-9, 11-14, 18-19, 21-25 and 59-60 are rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 6,879,831 to (Hamabe). The Examiner's rejection on this ground is respectfully traversed.

Among the limitations of independent claims 1, 11, 18 and 22 which are neither disclosed nor suggested in the art of record is the requirement that the mobile station comprises "means for estimating a communication path quality by switching between a downlink common pilot channel transmitted with a *first directivity* and a download dedicated control channel transmitted with a *second directivity*." (Emphasis added). Hamabe discloses that a mobile station detects a phase difference between the common pilot channels (CPICHs) and feeds this information back to the base station as "the transmission diversity control information." See Hamabe col. 1, ll. 61-64. The transmission diversity in Hamabe is used to determine when to switch a mobile station from one base station to another, *i.e.*, soft handover. See col. 2, ll. 26-34. In other words, Hamabe teaches switching from one base station to another based on the phase difference between the CPICHs received from the two base stations. Hamabe does not disclose that the mobile station estimates the downlink communication path quality by "switching between a downlink pilot channel transmitted with a first directivity and a

downlink dedicated control channel transmitted with a second directivity.” The cited portions of Hamabe (col. 7, ll. 44-50, 52-52 and 63-65) merely disclose transmission diversity control based on the phase difference of the received common pilot channels from the two base stations. Hamabe has no disclosure whatsoever of estimating communication path quality based on a directional signal, nor is such quality based on the downlink dedicated control channel. In the absence of any disclosure suggestion of these features of the invention, independent claims 1, 11, 18 and 22 are believed to be in condition for allowance.

Claims 2-4, 8-9, 12-14, 19, 21, and 23-25 and 59-60 depend from claims 1, 8, 11 and 18 and include additional limitations found therein. These claims include further limitation which, in combination with the limitations of the claims that they depend from, are neither disclosed nor suggested in the art of record.

No rejections have been made with respect to independent claim 29. Accordingly, a *prima facie* rejection of dependent claims 59 and 60 have also not been made. Since claims 59 and 60 depend from claim 29 and include all the limitations found therein and further limitations which, in combination with the limitations of claim 29, are neither disclosed nor suggested in the art of record, these claims are believed to be in condition for allowance.

Claim 22 has been amended to improve the idiomatic use of English. No changes in the scope of the claim are made hereby.

Application No. 10/510,453
Amendment dated October 12, 2006
Reply to Office Action of July 13, 2006

Docket No.: G0126.0233

In view of the above, each of the presently pending claims in this application are believed to be in immediate condition for allowance. Accordingly, the Examiner respectfully request to pass this application to issue.

Dated: October 12, 2006

Respectfully submitted,

By /s/ Robert G. Gingher

Robert G. Gingher

Registration No.: 45,755

DICKSTEIN SHAPIRO LLP

1177 Avenue of the Americas

41st Floor

New York, New York 10036-2714

(212) 277-6500

Attorney for Applicant